

JOSEPH DONATELLI AND ROSE DONATELLI

MAY 14, 1942.—Ordered to be printed

Mr. CAPPER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 4526]

The Committee on Claims, to whom was referred the bill (H. R. 4526) for the relief of Joseph Donatelli and Rose Donatelli, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 2001, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 2001, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 4526) for the relief of Joseph Donatelli and Rose Donatelli, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Line 7, strike out the figures "\$10,000" and insert in lieu thereof "\$3,500."

Line 11, after "*Provided*," insert "That the acceptance of the above sum shall be in full settlement and release of any and all judgments against Walter Hill, Junior: *Provided further*,".

The purpose of the proposed legislation is to pay to Joseph and Rose Donatelli, of Pittsburgh, Pa., the sum of \$3,500 as compensation for the death of their minor daughter on July 20, 1940, as the result of being struck by an automobile driven by a special-delivery messenger.

STATEMENT OF FACTS

On July 20, 1940, Special Delivery Messenger Walter Hill was driving easterly on Penn Avenue and, as he neared the intersection of Fortieth Street, traveling at a speed of 25 miles per hour, the traffic signal was against him. Two girls started to cross Penn Avenue from his right in front of his car; he applied brakes but, due to the defective mechanical condition they were in, was unable to stop his car and continued on, striking Gloria Donatelli, the injuries received by her

causing her death. On January 23, Special Delivery Messenger Hill was tried for manslaughter and, on a plea of guilty, was sentenced to pay the costs of the trial and \$500 to the father of the child and was placed on probation for a 2-year period.

The Post Office Department, in report dated February 2, 1942, recommends the enactment of the legislation in whatever amount Congress, in its discretion, may deem appropriate. They also call attention of the committee to the fact that the messenger has been ordered to pay \$500 to the father of the child, and the bill has been so amended to relieve the postal driver of the continuance of payment. Appended hereto is report of the Post Office Department, together with other pertinent evidence.

OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., February 2, 1942.

Hon. DAN R. McGEHEE,
Chairman, Committee on Claims,
House of Representatives.

MY DEAR MR. McGEHEE: In compliance with the request of your committee, dated January 20, I transmit for consideration with H. R. 4526 all papers on file in this Department relating to the claim of Joseph and Rose Donatelli, of Pittsburgh, Pa., in the amount of \$10,000, arising out of an accident involving a special delivery messenger in which Gloria Donatelli, a 10-year old child, sustained fatal injuries.

The investigation of this accident disclosed that the messenger was at fault; that he was driving a car with poor brakes and failed to yield the right-of-way at an intersection. Apparently the messenger became confused when the deceased child and a companion suddenly appeared in the path of his car and lost control of his vehicle completely. The messenger was held guilty of involuntary manslaughter and sentenced to pay the costs of the trial and the sum of \$500 to the child's father.

In the circumstances it is believed that the pending bill should receive favorable consideration. This Department is not disposed to recommend any particular amount as constituting a sufficient award, believing that that is a matter for determination as a question of legislative policy. The attention of your committee is called to the fact that the messenger has been ordered to pay \$500 to the father of the child and has made some progress toward the liquidation of this amount.

Very truly yours,

AMBROSE O'CONNELL,
Acting Postmaster General.

POST OFFICE DEPARTMENT,
OFFICE OF INSPECTOR,
Pittsburgh, Pa., May 10, 1941.

Subject: Pittsburgh, Pa.: Accident on July 20, 1940, involving Special Delivery Messenger Walter J. Hill, Jr., resulting in death of Gloria Donatelli, 10-year-old daughter of Carmine Joseph and Rose Donatelli, 2624 Stayton Street.

INSPECTOR IN CHARGE,
Philadelphia, Pa.:

1. The case of above number and subject was given personal attention at Pittsburgh, Pa., on September 21 and 23, 1940, and February 4, 1941, and on various dates subsequent to February 4, 1941, in connection with other work.

2. The case is based upon a report submitted by Robert C. Ripple, a foreman and investigator for the post office at Pittsburgh, Pa., with the approval of the superintendent of mails at that office, concerning an accident which occurred on July 20, 1940. In his report it is stated that at about 12:30 p. m. on that date Special Delivery Messenger Walter Hill, Jr., while officially employed and driving his privately owned car eastwardly on Penn Avenue struck and fatally injured Gloria Donatelli, a 10-year-old child, whose address was 2624 Stayton Street, Pittsburgh, Pa. The post-office investigator further states that Special Delivery Messenger Hill was arrested and released on bail for an appearance at an inquest to be held on July 30, 1940; that investigation disclosed that the brakes on the messenger's car were in poor mechanical condition and supervisors had been instructed not to permit him to return to duty until they were repaired. The investigator's report is with the file.

3. The scene of this accident is shown correctly on the back of Form 27, which is with the file, together with completed Form 4560. Penn Avenue is one of the principal thoroughfares in the city of Pittsburgh and traffic at the intersection where this accident occurred is controlled by traffic lights. Penn Avenue is 35 feet wide, between curbs, and is paved with stone blocks. There are two car tracks for east- and west-bound traffic.

4. Special Delivery Messenger Walter J. Hill was interviewed. In an affidavit herewith he states that he has been employed in that capacity in the post office at Pittsburgh since February 6, 1940; that on July 20, 1940, he was assigned to a run from East Liberty Station and was using his 1935 model Ford coach; that at about 12:30 p. m. on that date, he was driving east on Penn Avenue to make a delivery at Forty-fourth Street; that as he neared the intersection of Penn Avenue and Fortieth Street he was traveling at a speed of about 25 miles per hour; that he thought the light was in his favor and proceeded with the intention of crossing Fortieth Street before it changed, but when he was about 25 or 30 feet from the intersection two girls started to cross Penn Avenue from his right, in front of his car; that he applied the brakes and swung his car to the left; that an accident would have been avoided if both girls had stopped but one of them, subsequently identified as Gloria Donatelli, started to run across Penn Avenue and as he was unable to stop his car struck her, passed over her, and continued on for a distance of about 20 feet; that he did not have time to sound his horn as the car was almost on the girls when they started to cross the street; that after the accident he went to the hospital with the injured girl, traveling in his car which was driven by Abe Bernstein, and he subsequently learned that the child died in the hospital at 2:15 p. m. on the date of the accident; that on January 22 and 23, 1941, he was tried for manslaughter before Judge Laird at Pittsburgh, Pa., and on a plea of guilty was sentenced to pay the costs of the trial and the sum of \$500 to the father of the child and was placed on probation for a 2-year period; that he knew the brakes on his car were in need of repairs before this accident occurred but thought they were better than they proved to be; that the accident occurred because of the defective brakes on his car and the fact that he did not see the child until too close to bring the car to a stop; that from testimony of witnesses when his case was called for trial it appears, too, that the light had changed and he should have stopped instead of continuing on through the intersection, and that he has since purchased another car and has had no other accidents for which he was responsible.

5. The special-delivery messenger was able to furnish the name of but one witness, Abe Bernstein, who was at the scene and who subsequently drove the messenger's car to carry the child to the hospital. On Form 4563, herewith, this witness states that the messenger's car was traveling at a speed of 35 to 40 miles per hour, that the driver passed a red traffic signal before striking the pedestrian, that he subsequently drove the messenger's car to carry the injured child to the hospital and found that the brakes were not effective, and that in his opinion the driver was to blame for this accident.

6. As will be noted from a report submitted by the postmaster at Pittsburgh under date of August 1, 1940, Messenger Hill was arrested at the time of the accident but was released on bail furnished by a friend. At the coroner's inquest on July 30, 1940, the jury ordered him held to await the action of the grand jury and he was again released on bail. Transmitted herewith is a certified copy of an indictment showing that on September 17, 1940, the grand jury returned a true bill charging the messenger with involuntary manslaughter; that on January 22, 1941, the messenger pleaded guilty to that charge, and on January 23, 1941, on payment of costs of the prosecution by the county, he was released on probation for a period of 2 years in custody of J. C. Coulter, probation officer, upon conditions. The conditions were as stated in his affidavit—that he pay the court costs and the sum of \$500 to the father of the child.

7. It is obvious from the affidavit made by the messenger and his statement on the original report of this accident that he was responsible. My information is, too, that when his case was called for trial he first entered a plea of not guilty but changed it to a plea of guilty after a jury had been empaneled and a number of witnesses were heard. These witnesses corroborated the statements of the one witness whose testimony is with the file and which is to the effect that the carrier ignored a red light, was traveling at a high rate of speed, and the brakes on his car would not hold.

8. While the carrier on his own admission was guilty of gross negligence in this matter, I believe that he is ordinarily a capable driver and will perform satisfactory service in the future. He had been employed but a few months when this

accident occurred and had purchased a used automobile which evidently was in poor condition. He could not explain just what occurred, but from his account of the accident it appears that he lost his head when these children appeared in the street in front of him and that he made no real effort to stop his car. In spite of his actions on this occasion he impressed me as being more intelligent than the average special-delivery messenger. He has no civil-service status but has been continued on duty and has made some progress toward payment from his earnings of the charges assessed against him by the court.

9. Although nearly a year has elapsed since this accident occurred claim has not been filed by the parents of the child. My information is that they employed an attorney and that action has been taken with a view to obtaining settlement from the Government through an act of Congress. Although the court action against the messenger was of a criminal nature and was prosecuted by the Commonwealth the court evidently considered the messenger's responsibility to the parents and part of his sentence was that he pay them the sum of \$500. Before sentence was passed the court inquired of the post-office investigator as to whether the Government would entertain a claim in this case and was informed that a claim would be considered but that none had been filed. Although the driver's license is usually revoked in cases of this nature that was not done in this instance, the court evidently being of the opinion that loss of his license might prevent the messenger from earning the amount awarded to the father of the child and the costs of his trial. Since it appears that the parents will not file claim in the usual manner further investigation at this time would be without result. In these circumstances the case is returned for closing with recommendation that if claim is subsequently filed consideration be given to the fact that the messenger must pay \$500 to the father of the child by order of the court.

M. W. BROWN,
Post Office Inspector.

STATE OF PENNSYLVANIA,
County of Allegheny, ss:

Walter J. Hill, first being duly sworn, deposes and says:

I am employed as a special-delivery messenger at Pittsburgh, Pa., and have held that position since February 6, 1940. On July 20, 1940, I was assigned to a run from East Liberty Station and was using my 1935 Ford coach. At about 12:30 p. m. on that date I was driving east on Penn Avenue to make a delivery at Forty-fourth Street and Penn Avenue. As I neared the intersection of Penn Avenue and Fortieth Street I was traveling at a speed of about 25 miles per hour. I thought the light was in my favor and proceeded with the intention of crossing Fortieth Street before it changed. When I was about 25 or 30 feet from the intersection two girls started to cross Penn Avenue from my right in front of my car. I applied the brake and swerved to the left. An accident would have been avoided if both girls had stopped, but one of them, subsequently identified as Gloria Donatelli, the 10-year-old daughter of Carmine Joseph and Rose Donatelli, started to run across immediately in front of my car and, as I was unable to stop the car, struck her, passed over her, and continued on for a distance of about 20 feet. I did not have time to sound my horn as my car was almost on the girls when they started across Penn Avenue in front of me. After the accident I went with the injured girl to the hospital, traveling in my car which was driven by Abe Bernstein, and subsequently learned that she died in the hospital at 2:15 p. m. on the date of the accident. On January 22 and 23, 1941, I was tried for manslaughter before Judge Laird at Pittsburgh, Pa., and on a plea of guilty I was sentenced to pay the costs of the trial and \$500 to the father of the child and placed on probation for a 2-year period. I knew the brakes on my car were in need of repairs before this accident occurred but thought they were better than they proved to be. This accident occurred because of the defective brakes on my car and the fact that I did not see the child until too close to bring the car to a stop. From testimony of witnesses when my case was called for trial it appears, too, that the light had changed and I should have stopped instead of continuing on through the intersection. I have since purchased another car and have had no other accidents for which I was responsible.

WALTER J. HILL, Jr.

Sworn and subscribed to before me at Pittsburgh, Pa., February 4, 1941.

J. M. BROWN,
Post Office Inspector.

PITTSBURGH, PA., March 29, 1941.

HON. THOMAS E. SCANLON,
1601 Metropolitan Street, Pittsburgh, Pa.

HONORABLE SIR: I am addressing you in behalf of Joseph Donatelli and Rose Donatelli, his wife, of 2624 Stayton Street, twenty-seventh ward, Pittsburgh, in your congressional district. I have been representing Mr. and Mrs. Donatelli in legal proceedings arising out of the death of their daughter, Gloria Donatelli, on July 20, 1940, and it is in this connection that I am appealing to you for your assistance. On the said July 20, 1940, the said Gloria Donatelli, aged 10, was killed in an automobile accident at the intersection of Fortieth Street and Penn Avenue in the city of Pittsburgh, Pa. The automobile involved in the accident was owned and operated by one Walter J. Hill, Jr., who at the time of the accident resided at 2305 Mahon Street, Pittsburgh, and was employed by the United States post office in the delivery of special delivery letters. The accident happened in the following manner: Mr. Hill was operating his car in the delivery of a special-delivery message for the United States post office in an easterly direction on Penn Avenue. As he approached the intersection of Penn Avenue and Fortieth Street he struck the Donatelli child as she was crossing from the south to the north side of Penn Avenue at the said intersection. Mr. Hill, at the time of the collision, had a red light in his direction and should not have entered into the intersection of Penn Avenue and Fortieth Street. The Donatelli child was crossing Penn Avenue, with the green light in her favor, and was struck when she was from one-third to one-half of the way across the street. The evicence in the proceedings to date have definitely established the above fact, to wit, that the Donatelli child had the green light in her favor and that Hill had a red light. The evidence has also established the fact that Hill's automobile was in a defective condition in respect to its brakes, and that it was almost impossible to stop the car by using the said brakes.

At the time of the accident the Donatelli child was visiting her uncle and aunt, Cosmo and Angeline Catanzarro, who resided on Fortieth Street, not far from the scene of the accident. The summer vacation was in progress and plans had been made for the Donatelli child to spend a week with her uncle and aunt. At the time of the accident, she had gone, with a cousin of about the same age, to a grocery store on the corner of Fortieth and Penn, had made a purchase in the said store, and was returning to the home of her uncle and aunt when she was struck by the automobile of Hill.

Following the accident and the death of the child, Walter J. Hill, Jr., was arrested by the coroner of Allegheny County, Pa., and, following a coroner's inquest, held on July 20 and 30, 1940, was held for action by the grand jury of Allegheny County, Pa., on a charge of manslaughter. At the trial of the case in the criminal court of Allegheny County, Pa., the defendant plead guilty to the charge of involuntary manslaughter and on January 23, 1941, was placed on probation for a period of 2 years. The record of the proceedings had by and before the coroner, together with the finding of the coroner's inquest, is attached hereto for your consideration, together with a certified copy of the proceedings of the criminal court.

Following the criminal proceedings had, as aforesaid, in connection with this matter, a civil claim for damages was made by my clients against the operator of the automobile, Walter J. Hill, Jr., but nothing has resulted from said claim by reason of the fact that the said Hill did not at the time of the accident carry insurance on his automobile and was not financially responsible otherwise, having no property or assets in his name. For this reason no civil suit was instituted against him. Likewise, we were not in position to institute any suit against Hill's employer, as the employer was the United States Post Office, and no suit can be brought against the post office or the United States Government.

Our only recourse or remedy is by voluntary action of the Government in compensating Mr. and Mrs. Donatelli for the loss sustained by them. I am advised that this action may be accomplished by legislation in Congress, and it is for that reason that we are appealing to you, namely, to ask for your assistance in the preparation and introduction of a bill in Congress for an appropriation for Mr. and Mrs. Donatelli.

Mr. and Mrs. Donatelli are both citizens of the United States by reason of their birth in this country. They have lived at their present address since 1921 and have been residents of the United States in your congressional district for 43 years. Mr. Donatelli is 44 years of age and his wife is 39. Besides their deceased daughter, Gloria, they have two sons: Fred, aged 10, and Joseph, aged 8. Gloria was their only daughter and oldest child. Mr. Donatelli is a carpenter by trade,

has always been a hard-working, respectable, and reputable member of the community. Since the loss of their child, both Mr. and Mrs. Donatelli have been greatly affected, particularly Mrs. Donatelli, who has been continuously ill and under the care of a physician since the time of the death of her child.

A photograph of the child accompanies this letter, so that you may see what the child looked like. At the time of her death, the Donatelli girl was attending the Horace Mann School where she was in the fifth grade and doing good work in her classes. A letter from Mr. John A. Harrison, principal of the school, also accompanies this petition and sets forth some additional information concerning the child's scholastic record. The girl also had some recognizable talent in drawing—the parents had hopes of educating her and training her further along these lines, and a letter from her art teacher in school is also enclosed herewith.

Mr. and Mrs. Donatelli incurred the following expenses as a result of the death of their child:

William Sirlin for burial of the child.....	\$375. 56
Burial lot in North Side Catholic Cemetery.....	50. 00
Western Pennsylvania Hospital.....	26. 00
Queen of Heaven Church for church services.....	25. 00
Total.....	476. 56

They are, of course, also entitled to some consideration for their great loss, their pain and suffering occasioned thereby, and for loss of services of the said child until such time as she reached the age of 21 had she not been killed.

This case has been thoroughly investigated by the post office, and I believe that the post-office records will verify the facts set forth in this petition.

I would appreciate an opportunity to meet with you personally in regard to this matter and present my clients to you or to furnish you with any additional information you may think necessary.

My clients and their many friends, relatives, and neighbors in the community, as well as myself, will be forever grateful to you for whatever consideration you may give to this matter and for any action you may take on our behalf.

Respectfully yours,

ALBERT E. LEVEN.

PITTSBURGH PUBLIC SCHOOLS,
Pittsburgh, Pa., April 3, 1941.

Mr. ALBERT E. LEVEN,
Attorney, Plaza Building, Pittsburgh, Pa.

DEAR SIR: The statement which you requested concerning Gloria Donatelli's ability in the fifth grade art class in Horace Mann School is as follows:

"Gloria Donatelli had an appreciation of color, a fine sense of rhythm and balance, and the ability to represent a little beyond the average child in her class."

Respectfully,

HARRIET B. AYRES, Teacher,
JOHN A. HARRISON, Principal.

PITTSBURGH PUBLIC SCHOOLS,
Pittsburgh, Pa., February 18, 1941.

Mr. ALBERT E. LEVEN,
Pittsburgh, Pa.

DEAR MR. LEVEN: Gloria Donatelli attended the Horace Mann School from September 3, 1935, to June 27, 1940. She was in the 5B grade and doing good work in her classes. She scored 102 on the Kuhlman-Anderson intelligence test. While in the 4B grade she scored 1 year in advance of her grade.

Gloria was a quiet child and her school attendance was very good.

Very truly yours,

JOHN A. HARRISON.

STATEMENT

PITTSBURGH, PA., July 22, 1940.

Mr. Joseph Donatelli to William Sirlin, debtor, funeral home, for burial of Gloria Donatelli:

Casket and professional supervision	\$225. 00
Concrete vault	50. 00
Embalming	15. 00
Transferring remains from hospital	4. 00
Palm decoration	10. 00
Cemetery charges	28. 00
Paper notices	10. 56
Hearse	14. 00
Cars (2)	18. 00
Transcript	1. 00
Total	375. 56

PITTSBURGH, PA., April 30, 1941.

To Whom It May Concern:

Mrs. Rose Donatelli has been under my care since the death of her daughter. She has lost weight, has hysteria at times, constantly crying spells, and sleepless nights. It is my professional opinion that the death of her child was the cause of her present condition.

Respectfully,

D. S. WARD, M. D.

PITTSBURGH, PA., October 29, 1940. 1

Mr. C. Joseph Donatelli to the Western Pennsylvania Hospital, debtor, hospital No. 1766, account of Gloria Donatelli (deceased):

Room rent from July 20 to July 20, 1940	\$1
X-ray charge (1)	25
Total	26

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